IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3639 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 1 - Petitioner(s)

Versus

JEELABHAI VASTABHAI - Respondent(s)

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Appearance :
MR KL PANDYA A.G.P. for Petitioner No(s).: 1,2.
M/S PATEL ADVOCATES for Petitioner No(s).: 1.
MRS DT SHAH for Respondent No(s).: 1.
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CORAM : HON'BLE MR JUSTICE KS JHAVERI
Date : 18/07/2005

ORAL JUDGMENT

1. The petitioner State has challenged the judgment and award dated 6th June, 1997 passed by the Labour Court, Surendranagar in Recovery Application No. 25/93, whereby the said application was allowed.

2. The short facts of the case are that the respondent was engaged as a daily wager by the petitioner authority. It is the case of the petitioner that the respondent was not regularly appointed employee and he was a daily rate wager who was given work as and when required by the petitioner depending upon the availability of grant.

2.1. The respondent preferred Recovery Application before the Labour Court demanding the difference of wages. The Labour Court, Surendranagar by award dated 6th June, 1997, allowed the said Recovery Application. Hence, this petition.

3. Mr. K.L. Pandya learned A.G.P., has contended that the Labour Court while deciding the Recovery Application under Section 33 (c) (2) of the Industrial Disputes Act, 1947, the Labour Court has committed an error in granting benefits under the Government Resolution without there being any adjudication between the parties. He has submitted that no such benefits can be granted to the respondent as contemplated under Section 33 (c) (2) of the Industrial Disputes Act, 1947.

3.1. Mr. Pandya has further contended that in view of the Full Bench Decision of this Court in the case of Gujarat Forest Producers, Gatherers & Forest Workers Union v. State of Gujarat reported in 2004 (2) G.L.R. p.1488, the Forest Department of the petitioner cannot be termed to be “Industry” under the Industrial Disputes Act, 1947.

4. I have heard the learned counsel for the parties and have perused the materials produced on record. It is not in dispute that there is no award or judgment in favour of the respondent that they are entitled for the benefits under the Government Notification. The Labour Court, in the present case has granted the benefits under the Government Notification, without their being any award or judgment between the parties. The Labour Court have passed the impugned award only if their existed an award under the relevant provision of the Act between the parties. In my opinion, the Labour Court has committed serious error by entertaining the applications preferred by the respondent.

Moreover in view of the recent Full Bench Decision of this Court in the case of Gujarat Forest

Producers, Gatherers & Forest Workers Union v. State of Gujarat (Supra), the Forest Department of the petitioner cannot be termed to be an “Industry” under the Industrial Disputes Act, 1947. Hence, the impugned order of the Labour Court is illegal and perverse and deserves to be quashed and set aside.

5. In the result, the petition is allowed. The impugned order dated dated 6th June, 1997 passed by the Labour Court, Surendranagar in Recovery Application No. 25/93, is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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